IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.THANKAPPAN

WEDNESDAY, THE 23RD MAY 2007 / 2ND JYAISHTA 1929

CRL.A.No. 2 of 1999()

CC.172/1992 of JUDL. MAGISTRATE OF FIRST CLASS COURT-I, PALAKKAD

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APPELLANT/COMPLAINANT:

THOMAS, SON OF VARKEY,
MANAPPADAM, PUTHUKKODE VILLAGE,
ALATHUR TALUK, PALAKKAD DISTRICT.

BY ADV. SRI.T.RAVIKUMAR

RESPONDENTS/2ND ACCUSED & STATE:

1.ROIBEE, SON OF UDUPU,
PARAMBACHERIYILKOCHU VEEDU,
MUVATTUPUZHA TALUK,
ERNAKULAM DISTRICT.

2.STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY ADVS. SRI.BAIJU JOHN
SRI.JOHN VARGHESE(THOPPIL)-R1
PUBLIC PROSECUTOR SRI. C,K.SURESH -R2

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 23/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.THANKAPPAN, J.

CRL. APPEAL NO. 2 OF 1999

Dated this the 23rd day of May, 2007

JUDGMENT

This appeal is filed by the complainant against the second accused in C.C.No.172 of 1992 on the file of the Judicial First Class Magistrate's Court -I, Palakkad.

2. The allegations in the complaint are as follows: The appellant - complainant who was formerly residing at Muvattupuzha with his family lost his business and subsequently settled down at Manappadam and that while he was residing at Muvattupuzha, he had financial transactions with the second accused - first respondent herein. It was further alleged that due to difference of opinion in that transaction, the appellant and the first respondent were on inimical terms and on 29.10.1991 at about 7.30 p.m., the first and second accused and some other unidentified persons trespassed into the residential compound of the appellant and the first accused demanded cash which was allegedly due from the appellant. It was also alleged that when the appellant denied the same, the accused

attempted to trespass into his house and when the appellant - complainant closed the door, the accused pointed a gun towards the complainant through the window and demanded the appellant to come out of the house, failing which the accused threatened to destroy the house. According to the complainant, due to apprehension of life and property, he opened the door whereupon he and his son were forced to sign stamp papers and blank papers in which revenue stamps were affixed. It was further alleged that the accused took four cheque leaves from the table and obtained the signature of the wife of the complainant in the cheque leaves by threatening her. On the above allegations, the appellant filed the complaint against the first respondent and another for the offences punishable under Sections 143, 147, 148, 506(i) and 384 read with Section 149 I.P.C. Though the complaint was filed alleging offences punishable under the above sections, charge was framed under Sections 447, 386 and 387 read with Section 34 I.P.C. To prove the case against the accused, the appellant and five other witnesses were examined as PWs.1 to 6 and Exts.P1 to P8 series were produced. Exts. D1 to D3(c) were produced on the side of the defence, but no witnesses were examined. On closing the evidence of the complainant, accused Nos.1 and 2 were questioned under Section 313 Cr.P.C. After trial, the learned Magistrate acquitted both the accused who faced trial.

3. Heard the learned counsel appearing on either side and perused the records made available before this Court. The trial court had considered each and every piece of evidence adduced by the complainant and found that the appellant failed to prove the case against the accused beyond reasonable doubt. The trial court also found that the evidence of PWs.1, 5 and 6 who are the complainant, his wife and son respectively were contradictory in nature. On an overall appreciation of the entire evidence, this Court is of the view that that the impugned judgment requires no interference.

The Crl. Appeal is accordingly dismissed, confirming the judgment of the court below.

(K.THANKAPPAN, JUDGE)

sp/

K.THANKAPPAN, J.

CRL.APPEAL NO.2/1999

JUDGMENT

23RD MAY, 2007.